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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,823	07/14/2003	Samuel Arutyunyan	MBLST-010A	5916

7590

10/20/2004

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EXAMINER

GEHMAN, BRYON P

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,823

Applicant(s)

ARUTYUNYAN ET AL.

Examiner

Bryon P. Gehman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-14,26-29,36 and 37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-14,26-29,36 and 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 8-14,26-29 and 36-37 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/10/03</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Mueller (5,848,689). Claims 8-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hashimoto et al. (6,047,821). Each discloses a case for securely holding a disc, the case comprising a bottom member (20; 2; respectively), a top member (50; 3), a first locking member (140; 4) disposed on and extending upwardly from the bottom member, and a second locking member (152; 10b) complementary to the first locking member.

As to claim 9, each discloses a base member (30; 5 or lower portion of 4).

As to claims 10 and 11, Hashimoto et al. disclose an arm (10), the second locking member (10b) disposed on the arm, the arm being attached to the top member.

As to claim 12, Hashimoto et al. disclose the arm having two arm ends (10a and the indented portion of 10 extending from 3b), which as portions of a unitary structure are both attached to the top member.

3. Claims 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuitens et al. (5,685,427). Claims 26-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Chu (2004/0112773). Each discloses a case for securely holding a disc, the case comprising a bottom member (conventional, see col. 4, lines 37-41; 11; respectively), a top member (conventional, see col. 4, lines 37-41; L), a twisting member (top of 11; top of 12), a pair of opposing locking members (14;15) and a pair of connector members (25; upraised portion supporting 15).

As to claims 27 and 28, each discloses a twisting post (11; 12) with a lower distal end and an upper proximal end.

4. Claim 36 is rejected under 35 U.S.C. 102(e) as being anticipated by Hui (6,427,833). Claim 36 is rejected under 35 U.S.C. 102(e) as being anticipated by Hu (6,732,862). Each discloses a case for securely holding a disc, the case comprising a bottom member (12; 20; respectively), a top member (14; 10), a plunger housing (120C; 30) disposed on the bottom member and having a hollow end (between 22 and 125C; at 36), a pair of locking members (122C; 38), a connector member (126C; 37), and a plunger (125C; 35).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 14, 29 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 8, 26 and 36 above, and further in view of Lakoski et al. (5,713,463). Lakoski et al. disclose employing polypropylene to provide a disc-engaging structure. To modify the structure of any one of the above employed references employing polypropylene as the material would have been obvious in view of Lakoski et al., since it was previously recognized to use polypropylene as the material of a disc case provided with a disc-engaging structure.

7. This application contains claims directed to the following patentably distinct species of the claimed invention: I) Figures 1-3; II) Figures 4-6; and III) Figures 7-9.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no allowable has been held generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include

all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is presently (703) 605-1174 and effective November 9, 2004, becomes (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached presently on (703) 308-2672 and after November 9, 2004 on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4555 effective November 9, 2004.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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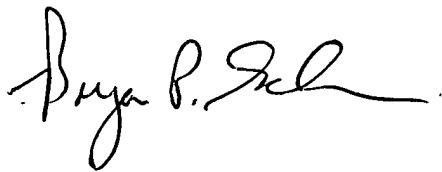
published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with the first name "Bryon" being more prominent.

Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG